

The House Committee on Judiciary offers the following substitute to HB 1359:

A BILL TO BE ENTITLED
AN ACT

To amend Title 14 of the Official Code of Georgia Annotated, relating to corporations, partnerships, and associations, so as to provide for certain filing fees for late filing of annual registration, filing of articles of dissolution or intent to dissolve, or application of withdrawal for a business corporation, a nonprofit corporation, a foreign limited liability partnership, a partnership under the "Georgia Revised Uniform Limited Partnership Act," or a limited liability company; to change provisions relating to reinstatement of a corporation, nonprofit corporation, or limited liability company after such entity was administratively dissolved; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 14 of the Official Code of Georgia Annotated, relating to corporations, partnerships, and associations, is amended by revising Code Section 14-2-122, relating to filing fees and penalties, as follows:

"14-2-122.

The Secretary of State shall collect the following fees and penalties when the documents described in this Code section are delivered to him or her for filing:

| <u>Document</u> | <u>Fee</u> |
|--|---------------|
| (1) Articles of incorporation. | \$ 100.00 |
| (2) Application for certificate of authority. | 225.00 |
| (3) Annual registration. | 30.00 |
| <u>(4) Penalty for late filing of annual registration.</u> | <u>40.00</u> |
| (4) <u>(5)</u> Agent's statement of resignation.. . . . | No fee |
| (5) <u>(6)</u> Certificate of judicial dissolution. | No fee |
| <u>(7) Articles of dissolution or intent to dissolve.</u> | <u>No fee</u> |
| <u>(8) Application of withdrawal.</u> | <u>No fee</u> |

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|---|---|--------|
| 1 | (6) <u>(9)</u> Application for reservation of a corporate name. | 25.00 |
| 2 | (7) <u>(10)</u> Civil penalty for a foreign corporation transacting business in this state | |
| 3 | without a certificate of authority. | 500.00 |
| 4 | (8) <u>(11)</u> Statement of change of address of registered agent...\$5.00 per | |
| 5 | corporation but not less than. | 20.00 |
| 6 | (9) <u>(12)</u> Application for reinstatement. | 100.00 |
| 7 | (10) <u>(13)</u> Certificate of conversion. | 95.00 |
| 8 | (11) <u>(14)</u> Any other document required or permitted to be filed by this chapter | 20.00" |

9 SECTION 2.

10 Said title is further amended by revising subsections (a) and (b) of Code Section 14-2-1422,
11 relating to reinstatement following administrative dissolution, as follows:

12 "(a) A corporation administratively dissolved under Code Section 14-2-1421 may apply
13 to the Secretary of State for reinstatement within five years after the effective date of such
14 dissolution. The application ~~must~~ shall:

15 (1) Recite the name of the corporation and the effective date of its administrative
16 dissolution;

17 (2) State that the ground or grounds for dissolution either did not exist or have been
18 eliminated;

19 ~~(3) State that the name by which the corporation will be known after reinstatement~~
20 ~~satisfies the requirements of Code Section 14-2-401~~ Be accompanied by a notarized
21 statement, signed by a person who was an officer or duly elected successor of the
22 corporation at the time that the corporation was administratively dissolved, stating that
23 such officer has knowledge of and assents to the application for reinstatement;

24 (4) Contain a statement by the corporation reciting that all taxes owed by the corporation
25 have been paid; and

26 (5) Be accompanied by an amount equal to the total annual registration fees and penalties
27 that would have been payable during the periods between dissolution and reinstatement,
28 plus the fee required for the application for reinstatement, and any other fees and
29 penalties payable for earlier periods.

30 ~~(b) If the corporation's name no longer satisfies the requirements of Code Section~~
31 ~~14-2-401, the corporation shall, as a condition of reinstatement, include in its application~~
32 ~~for reinstatement the adoption of a corporate name that is available in accordance with~~
33 ~~Code Section 14-2-401 and that has been reserved pursuant to Code Section 14-2-402. If~~
34 ~~the application for reinstatement contains a new corporate name, the articles of~~
35 ~~incorporation shall be deemed to have been amended to change the name of the corporation~~

~~to the name so adopted. The Secretary of State shall reserve the name of a corporation~~
~~administratively dissolved under Code Section 14-2-1421 for such corporation's specific~~
~~use for a period of five years after the effective date of the dissolution or until the~~
~~corporation is reinstated, whichever is sooner."~~

SECTION 3.

Said title is further amended by revising Code Section 14-3-122, relating to filing fees for nonprofit corporations, as follows:

"14-3-122.

~~(a)~~ The Secretary of State shall collect the following fees when the documents described in this subsection Code section are delivered for filing:

| <u>Document</u> | <u>Fee</u> |
|---|---------------|
| (1) Articles of incorporation. | \$ 100.00 |
| (2) Application for certificate of authority. | 225.00 |
| (3) Annual registration. | 30.00 |
| <u>(4) Penalty for late filing of annual registration.</u> | <u>40.00</u> |
| (4) <u>(5)</u> Agent's statement of resignation.. . . . | No fee |
| (5) <u>(6)</u> Certificate of judicial dissolution. | No fee |
| <u>(7) Articles of dissolution or intent to dissolve.</u> | <u>No fee</u> |
| <u>(8) Application of withdrawal.</u> | <u>No fee</u> |
| (6) <u>(9)</u> Application for reservation of a corporate name. | 25.00 |
| (7) <u>(10)</u> Statement of change of address of registered agent...\$5.00 per corporation but not less than. | 20.00 |
| (8) <u>(11)</u> Application for reinstatement. | 100.00 |
| (9) <u>(12)</u> Any other document required or permitted to be filed by this chapter | 20.00 |

~~(b) Each corporation, domestic or foreign, that fails or refuses to file its annual report for any year shall not be required to pay any penalty for so failing or refusing to file its annual report, but such corporation may be subject to administrative dissolution as provided in Code Section 14-3-1420."~~

SECTION 4.

Said title is further amended by revising subsections (a) and (b) of Code Section 14-3-1422, relating to reinstatement following administrative dissolution of a nonprofit corporation, as follows:

"(a) A corporation administratively dissolved under Code Section 14-3-1421 may apply to the Secretary of State for reinstatement within five years after the effective date of such dissolution. The application ~~must~~ shall:

(1) Recite the name of the corporation and the effective date of its administrative dissolution;

(2) State that the ground or grounds for dissolution either did not exist or have been eliminated;

~~(3) State that the name by which the corporation will be known after reinstatement satisfies the requirements of Code Section 14-3-401.~~ Be accompanied by a notarized statement, signed by a person who was an officer or duly elected successor of the corporation at the time that the corporation was administratively dissolved, stating that such officer has knowledge of and assents to the application for reinstatement;

(4) Contain a statement by the corporation reciting that all taxes owed by the corporation have been paid; and

(5) Be accompanied by an amount equal to the total annual registration fees and penalties that would have been payable during the periods between dissolution and reinstatement, plus the fee required for the application for reinstatement, and any other fees and penalties payable for earlier periods.

~~(b) If the corporation's name no longer satisfies the requirements of Code Section 14-3-401, the corporation shall, as a condition of reinstatement, include in its application for reinstatement the adoption of a corporate name that is available in accordance with Code Section 14-3-401 and that has been reserved pursuant to Code Section 14-3-402. If the application for reinstatement contains a new corporate name, the articles of incorporation shall be deemed to have been amended to change the name of the corporation to the name so adopted.~~ The Secretary of State shall reserve the name of a corporation administratively dissolved under Code Section 14-2-1421 for such corporation's specific use for a period of five years after the effective date of the dissolution or until the corporation is reinstated, whichever is sooner."

SECTION 5

Said title is further amended by revising Code Section 14-8-57, relating to filing fees pertaining to foreign limited liability partnerships, as follows:

"14-8-57.

The Secretary of State shall collect the following fees and penalties when the documents described below are delivered to the Secretary of State for filing pursuant to the chapter:

Document

Fee

(1) Application for certificate of authority to transact business. \$ 200.00

| | |
|---|---------------|
| (2) Statement of change of registered office or registered agent...\$5.00 per foreign limited liability partnership, but not less than. | 20.00 |
| (3) Registered agent's statement of resignation pursuant to subsection (e) of Code Section 14-8-46.. . . . | No fee |
| (4) Annual registration. | 25.00 |
| <u>(5) Penalty for late filing of annual registration.</u> | <u>40.00</u> |
| <u>(6) Application of withdrawal.</u> | <u>No fee</u> |
| (5) <u>(7)</u> Any other document required or permitted to be filed by this chapter | 20.00" |

SECTION 6.

Said title is further amended by revising Code Section 14-9-1101, relating to fees under the "Georgia Revised Uniform Limited Partnership Act," as follows:

"14-9-1101.

The Secretary of State shall charge and collect for filing:

| <u>Document</u> | <u>Fee</u> |
|--|---------------|
| (1) Filing a <u>A</u> certificate of limited partnership. | \$ 100.00 |
| (2) Filing a <u>A</u> registration of a foreign limited partnership.. . . . | 225.00 |
| (3) Filing an <u>An</u> annual registration. | 30.00 |
| <u>(4) Penalty for late filing of annual registration.</u> | <u>40.00</u> |
| (4) <u>(5)</u> Agent's statement of resignation.. . . . | No fee |
| <u>(6) Certificate of cancellation.</u> | <u>No fee</u> |
| <u>(7) Application of withdrawal.</u> | <u>No fee</u> |
| (5) <u>(8)</u> Statement of change of address of registered agent or registered office...\$5.00 per limited partnership but not less than. | 20.00 |
| (6) <u>(9)</u> Filing of an <u>An</u> amendment to a certificate of limited partnership for the purpose of becoming a limited liability partnership.. . . . | 100.00 |
| (7) <u>(10)</u> Certificate of election to become a limited partnership. | 80.00 |
| (8) <u>(11)</u> Certificate of conversion.. . . . | 95.00 |
| (9) <u>(12)</u> Application for reservation of a name. | 25.00 |
| (10) <u>(13)</u> Filing any <u>Any</u> other document required or permitted pursuant to this chapter. | 20.00" |

SECTION 7.

Said title is further amended by revising paragraph (4) of subsection (b) of Code Section 14-11-603, relating to judicial and administrative dissolution of limited liability companies, as follows:

"(4) A limited liability company administratively dissolved under this Code section may apply to the Secretary of State for reinstatement within five years after the effective date of such dissolution. The application ~~must~~ shall:

(A) Recite the name of the limited liability company and the effective date of its administrative dissolution;

(B) State that the ground or grounds for dissolution either did not exist or have been eliminated;

(C) ~~State that the limited liability company's name satisfies the requirements of Code Section 14-11-207~~ Be accompanied by a notarized statement, signed by a person who was a manager or member or a successor in interest of the limited liability company at the time that the limited liability company was administratively dissolved, stating that such individual has knowledge of and assents to the application for reinstatement;

(D) Contain a statement by the limited liability company reciting that all taxes owed by the limited liability company have been paid; and

(E) Be accompanied by an amount equal to the total annual registration fees and penalties that would have been payable during the periods between dissolution and reinstatement, plus the fee required for the application for reinstatement, and any other fees and penalties payable for earlier periods.

If the Secretary of State determines that the application contains the information required by this paragraph and that the information is correct, he or she shall prepare a certificate of reinstatement that recites his or her determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the limited liability company. When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution, and the limited liability company resumes carrying on its business as if the administrative dissolution had never occurred."

SECTION 8.

Said title is further amended by adding a new paragraph to subsection (b) of Code Section 14-11-603, relating to judicial and administrative dissolution of limited liability companies, to read as follows:

"(6) The Secretary of State shall reserve the name of a limited liability company administratively dissolved under Code Section 14-2-1421 for such limited liability

company's specific use for a period of five years after the effective date of the dissolution or until the limited liability company is reinstated, whichever is sooner."

SECTION 9.

Said title is further amended by revising subsection (a) of Code Section 14-11-1101, relating to filing fees and penalties for limited liability companies, as follows:

"(a) The Secretary of State shall collect the following fees when the documents described below are delivered to the Secretary of State for filing pursuant to this chapter:

| <u>Document</u> | <u>Fee</u> |
|---|-------------------------|
| (1) Articles of organization. | \$ 100.00 |
| (2) Articles of amendment. | 20.00 |
| (3) Articles of merger. | 20.00 |
| (4) Certificate of election under Code Section 14-11-212 (together with articles of organization). | 95.00 |
| (5) Application for certificate of authority to transact business. | 225.00 |
| (6) Statement of commencement of winding up. | 20.00 No Fee |
| (7) Certificate of termination. | 20.00 No Fee |
| <u>(8) Application of withdrawal.</u> | <u>No fee</u> |
| (8) <u>(9)</u> Articles of correction. | 20.00 |
| (9) <u>(10)</u> Application for reservation of a name. | 25.00 |
| (10) <u>(11)</u> Statement of change of registered office or registered agent...\$5.00 per limited liability company (foreign or domestic), but not less than. | 20.00 |
| (11) <u>(12)</u> Registered agent's statement of resignation pursuant to subsection (d) of Code Section 14-11-209 or subsection (d) of Code Section 14-11-703. | No fee |
| (12) <u>(13)</u> Certificate of judicial dissolution. | No fee |
| (13) <u>(14)</u> Annual registration (foreign or domestic).. . . . | 30.00 |
| <u>(15) Penalty for late filing of annual registration.</u> | <u>40.00</u> |
| (14) <u>(16)</u> Reinstatement fee. | 100.00 |
| (15) <u>(17)</u> Any other document required or permitted to be filed by this chapter. | 20.00 |
| (16) <u>(18)</u> Certificate of conversion. | 95.00" |

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- SECTION 10.
- All laws and parts of laws in conflict with this Act are repealed.